



POLICE DEPARTMENT

MEMORANDUM FOR: Police Commissioner

February 12, 2013

Re: Police Officer Joseph Gelardi
Tax Registry No. 932704
41 Precinct
Disciplinary Case No. 2011-5958

The above-named member of the Department appeared before me on January 23, 2013, charged with the following:

1. Said Police Officer Joseph Gelardi, while assigned to the 41 Precinct, on or about and between April 22, 2010, and April 23, 2010, engaged in conduct prejudicial to the good order, efficiency or discipline of the Department, to wit: said Police Officer on several occasions prevented the processing and adjudication of several summonses issued to several individuals.

P.G. 203-10, Page 1, Paragraph 5 -- PROHIBITED CONDUCT
GENERAL REGULATIONS

The Department was represented by Michelle Alleyne, Esq., Department Advocate's Office, and Respondent was represented by Craig Hayes, Esq., Worth, Longworth, and London, LLP.

Respondent, through his counsel, entered a plea of Guilty to the subject charges and testified in mitigation of the penalty. A stenographic transcript of the mitigation record has been prepared and is available for the Police Commissioner's review.

DECISION

Respondent, having pleaded Guilty, is found Guilty as charged.

SUMMARY OF EVIDENCE IN MITIGATION

Respondent testified that he became a member of the Department in July 2003. After graduating from the Police Academy, he was assigned to the 41 Precinct where he remains to this day. He originally was assigned to patrol but for the last year and a half he has been assigned as the fleet manger, a position that he had to apply and put in for. His duties as fleet manager are to maintain the approximately thirty vehicles in the 41 Precinct and keep them in a "functioning fashion." During his career he has had one command discipline which resulted in a "warn and admonish."

On April 22 and 23, 2010, Respondent was working behind the desk as the telephone switchboard operator. He was assigned this duty because he was on limited capacity duty due to four broken bones in his foot. This was the result of a line of duty injury which occurred when he was trying to apprehend a perpetrator.

As far as he knows, the fact that he was in this assignment as the telephone switchboard operator, is why a call from Police Officer Christopher Manzi was directed to him. On the first date Manzi asked him to pull a summons from the box. On the next date Manzi asked him to pull a different summons from the box. In both instances Respondent complied.

Throughout his career Respondent has heard of this practice of pulling summonses and Respondent acknowledged that over the years, "he may have done it another time or two, but definitely not more than five times throughout my career." He

said as early as in the Academy he remembered hearing that if there was a problem with a summons it could be taken care of by the delegate.

He now realizes the seriousness of this practice and he would never do it again. He stated that his yearly vacation allowance is 25 vacation days.

On cross examination, Respondent agreed that he knew that by pulling the two summonses they would not be processed. Respondent acknowledged that on April 22, 2010, Manzi had told him that he wanted him to remove a summons issued to a fellow police officer for a parking violation. On April 23, 2010, Manzi again had called Respondent and asked him to remove another summons issued to a civilian for a seatbelt violation. Respondent acknowledged that on these two instances that it would have been fair to say that what he helped do was to take care of or fix a ticket.

On re-direct examination, Respondent stated that there was a lock on the summons box but that it did not work. Respondent agreed that there were supervisors in the area and acknowledged that when he opened the box to get these summonses nobody stopped him. Respondent acknowledged that in his career, he has never seen a supervisor stop someone from removing a summons from the box.

On re-cross examination, Respondent acknowledged that when he went to the summons box, he knew that his intent was to remove those summonses so that they could never be adjudicated.

PENALTY

In order to determine an appropriate penalty, Respondent's service record was examined. See *Matter of Pell v. Board of Education*, 34 NY 2d 222 (1974). Respondent was appointed to the Department on July 1, 2003. Information from his personnel record that was considered in making this penalty recommendation is contained in an attached confidential memorandum.

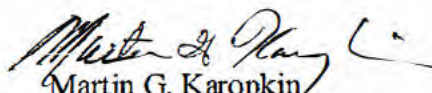
Respondent appears to be a dedicated officer who, in his nine and a half year career, has had no other formal disciplinary issues. There is no question that as a result of a line of duty injury he found himself working as the telephone switchboard operator in the vicinity of the desk, in proximity to where the summons box is located. It is apparently for this reason alone that he was the one who received the two calls from Manzi that resulted in his pulling two summonses.

While all of this is quite sympathetic, the fact is that Respondent did pull the two summonses in question and thereby "fixed" those tickets. The Department has set a penalty to address this serious misconduct which has been imposed in numerous other similar cases (see Department Exhibit No. 1). There is nothing in the facts of this case that would justify a penalty other than what the Department has recommended.

Therefore it is recommended that Respondent be DISMISSED from the New York City Police Department, but that his dismissal be held in abeyance for a period of one year, pursuant to Section 14-115 (d) of the Administrative Code, during which time he remains on the force at the Police Commissioner's discretion and may be terminated at

anytime without further proceedings. Further this Court recommends that the Respondent forfeit 25 vacation days and 5 suspension days.

Respectfully submitted,


Martin G. Karopkin
Deputy Commissioner Trials


APPROVED
FEB 25 2012
RAYMOND W. KELLY
POLICE COMMISSIONER

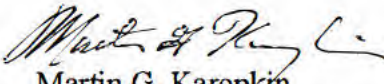
POLICE DEPARTMENT
CITY OF NEW YORK

From: Deputy Commissioner Trials
To: Police Commissioner
Subject: CONFIDENTIAL MEMORANDUM
POLICE OFFICER JOSEPH GELARDI
TAX REGISTRY NO. 932704
DISCIPLINARY CASE NO. 2011 5958

In 2011 and 2012, Respondent received an overall rating of 4.5 "Extremely Competent/Highly Competent" on his annual performance evaluation. He was rated 3.5 "Highly Competent/Competent" in 2010. [REDACTED]

[REDACTED] Respondent
has no prior formal disciplinary record.

For your consideration.


Martin G. Karopkin
Deputy Commissioner Trials